

DATE: June 1, 2005

TO: Region Engineers
Region Delivery Engineers
TSC Managers
Resident/Project Engineers
Region Construction Engineers

FROM: Larry E. Tibbits
Chief Operations Officer

John C. Friend
Engineer of Delivery

SUBJECT: Bureau of Highway Instructional Memorandum 2005-09
Waiver of Contract Specification Requirements and/or
Changes to Material Requirements

Section 104.04, Conformity with Plans and Specifications, of the *2003 Standard Specifications for Construction* states: "All work performed and all materials furnished shall be in reasonably close conformity with the lines, grades, cross sections, dimensions, and material requirements, including tolerances, shown on the plans or required by the specifications. In the event the Engineer finds the materials, work performed, or the finished product not within reasonably close conformity with the plans and specifications, the Engineer will then determine if the work is to be accepted or rejected. If the work is to be accepted, the Engineer will document the basis of acceptance by contract modification which will provide for an appropriate adjustment in the contract price, or a guaranty bond, as deemed necessary to conform to the Engineer's determination based on engineering judgment except where adjustments are shown elsewhere in these specifications." To assure statewide consistency in how these acceptance decisions are arrived at and documented, the following procedures shall apply.

Consultation

The project office shall consult with knowledgeable and experienced individuals before actions are taken to change contract specifications and/or material requirements. This consultation may involve a region specialist, an appropriate Lansing support area specialist, and/or a Federal Highway Administration senior engineer who is knowledgeable with the department's construction specifications and material acceptance practice.

Justification

Written justification must show how the proposed changes do not adversely affect the design and/or performance of the final project. Michigan law requires construction work to be competitively bid; therefore, justifications must also demonstrate the proposed changes do not compromise the competitive bidding process. Resident/project engineers are advised to follow the decision-making process prescribed in Section A-11 of the *Materials Quality Assurance Manual*.

Adjustments

Materials that do not meet specifications may require an appropriate price adjustment. Follow the applicable procedures prescribed in Section 103, Subsection 3 of the *Construction Manual*.

Documentation

Document all verbal and written discussions in the project files. Place copies of correspondence (including project or consultation notes and/or recommendations) in the project files, and copy the Engineer of Construction and Technology and the FHWA Area Engineer.

In summary, when considering contract specification waivers and/or changes in material requirements, one should consult, justify, adjust, and document.

Chief Operations Officer

Engineer of Delivery

BOHD:C/T:AC:kab

Index: Materials

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